



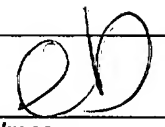
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/085,021 | 03/01/2002 | Conrad Henkens | HENKENS=1 | 8793 |
| 1444 | 7590 | 07/21/2004 | EXAMINER | |
| BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303 | | | GOFF II, JOHN L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1733 | |

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|----------------|---|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/085,021 | HENKENS ET AL. | |
| | Examiner | Art Unit |  |
| | John L. Goff | 1733 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 5/5/04. The previous 35 USC 112 rejections have been overcome.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Applicant's election without traverse of Group I, claims 1-6 and new claims 10 and 11, in the reply filed on 5/5/04 is acknowledged.

Claim Rejections - 35 USC § 112

4. Claims 1, 3-6, 10, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 requires "a solution or dispersion of the identical plastic from which the film is made" (Emphasis added). There is no disclosure in the specification that the laminating agent, i.e. the solution or dispersion of plastic, is of the "identical" plastic from which the inner plastic film of the multi-layer is made. It is suggested applicant delete from the claim "a solution or dispersion of the identical plastic from which the film is made" and re-insert the

Art Unit: 1733

original claim language for the laminating agent, i.e. the laminating agent being chemically and physically derived from plastic of which the inner plastic film of the multi-layer is made.

5. Claims 1, 3-6, 10, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 requires “a solution or dispersion of the identical plastic from which the film is made” (Emphasis added). It is unclear what is required by the term “identical”. Does the limitation require the plastic of the solution or dispersion to be only of the type used in the inner plastic film? Does the limitation require the plastic of the solution or dispersion merely to comprise plastic of the type used in the inner plastic film in addition to other plastics that may be present? The examiner has interpreted the claim to require the latter.

Claim Rejections - 35 USC § 103

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1733

7. Claims 1, 3-6, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claude et al. (U.S. Patent 4,382,127) in view of Ohtsuki et al. (U.S. Patent 4,407,689).

Claude et al. disclose a process for producing a multi-layer film used in the container, i.e. packaging, art. Claude et al. teach the process comprises providing an aluminum foil, applying a first dispersion of polyethylene in a solvent onto a surface of the aluminum foil, applying a second dispersion of a grafted polyolefin in a solvent onto the first dispersion such that the first and second dispersion form a homogenous coating, and then drying the coated foil in a tunnel drier to eliminate the solvent (Column 2, lines 21-23 and 30-35 and Column 3, lines 1-7 and 28-30). Claude et al. further teach the coated film may be bonded with polyethylene film to produce a three-layer composite (Column 4, lines 1-5), i.e. satisfying the limitation of bonding a carrier film to a plastic film through a laminating dispersion wherein plastic of the dispersion is identical to the plastic film. Claude et al. are silent as to using the three-layer composite as food packaging. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the three-layer composite film (useful in the packaging art) taught by Claude et al. as food packaging wherein the polyethylene layer is the inside layer as it was a well known and conventional technique in the art to use multi-layers films of the same type in this manner as shown for example by Ohtsuki et al. wherein only the expected results would be achieved. Claude et al. are silent as to how the aluminum foil and polyethylene film are supplied to the process, it being noted Claude et al. are not limited to any particular method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to supply the aluminum foil and polyethylene film taught by Claude et al. from dispensing rolls as it was a well known and conventional technique in the art to supply these same substrates to a laminating

Art Unit: 1733

process in this manner as shown for example by Ohtsuki et al. wherein only the expected results would be achieved.

Regarding the limitation requiring complete vaporization of the solvent, it is noted the drying step is performed solely to eliminate the solvent such that completely vaporizing the solvent is intrinsic to Claude et al. In any event, it would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the drying for a sufficient length of time that the solvent is completely vaporized to produce a coated foil wherein the solvent is eliminated.

Regarding claims 1, 5, and 6, Claude et al. are silent as to a particular technique for laminating the coated foil and polyethylene film, it being noted Claude et al. are not limited to any particular method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to laminate the coated foil and polyethylene film as taught by Claude et al. through the application of heat and pressure as it was well known and conventional in the art to laminate a coated film and plastic film of the same type under increased heat and pressure including the amounts disclosed in claims 5 and 6 as shown for example by Ohtsuki et al. wherein only the expected results, i.e. laminating the coated film and polyethylene film, would be achieved.

Regarding claims 3, 4, and 11, Claude et al. are silent as to laminating an additional film to the free surface (i.e. the surface that is not laminated with the polymeric film) of the aluminum foil. However, as noted above the multi-layer taught by Ohtsuki et al. is used in the packaging art, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the free surface of the aluminum foil taught by Ohtsuki et al. to include an

Art Unit: 1733

additional thermoplastic layer, such as polyamide or polyester, laminated thereto to provide the aluminum foil with increased mechanical strength as was well known in the packaging art as shown for example by Ohtsuki et al.

Ohtsuki et al. disclose a process for producing a multi-layer film used in food packaging. Ohtsuki et al. teach the process comprises providing a continuous roll of aluminum foil, providing a continuous roll of thermoplastic resin film (e.g. formed of polyolefins such as ethylene, propylene, etc.), applying a solution of modified polyolefin adhesive dissolved or dispersed in an organic solvent (the adhesive is formed by co-polymerizing an olefinic monomer, e.g. ethylene or propylene, with one or more ethylenically unsaturated carboxylic acids) to a surface of the aluminum foil, heating the coated foil to vaporize the solvent, contacting the coated foil and thermoplastic resin film, and laminating the coated foil to the thermoplastic resin film through the modified polyolefin adhesive at a temperature of 110-160 °C and a pressure of 25-39 N/cm to form a packaging material wherein the thermoplastic resin film is the inside layer (Column 2, lines 25-40, 60-64, and 66-68 and Column 3, lines 1-4, 27-32, and 49-54 and Column 4, lines 66-68 and Column 5, lines 1-3 and 8-18 and Column 6, lines 4-10 and 21-22 and in particular Example 4). Ohtsuki et al. further teach the surface of the aluminum foil not laminated with the thermoplastic resin film may be laminated to a thermoplastic such as polyamide or polyester to increase the mechanical strength of the foil such that the final food packaging laminate has the following structure: polyester (or polyamide) layer/aluminum foil/modified polyolefin adhesive layer/polyolefin film (Column 2, lines 60-64 and 66-68 and Column 3, lines 1-4).

Art Unit: 1733

8. **In the event an amendment is submitted to overcome the 35 USC 112 first paragraph rejection made above in paragraph 4 wherein claim 1 is amended in the manner suggested without raising any new issues or considerations, the following rejection would also be applicable.**

9. Claims 1, 3-6, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohtsuki et al. in view of Claude et al.

Ohtsuki et al. and Claude et al. are described above in full detail. Ohtsuki et al. are silent to performing the drying step in a drier tunnel, i.e. channel, it being noted Ohtsuki et al. are not limited to any particular drying method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the drying taught by Ohtsuki et al. by passing the coated foil through a drying tunnel as it was a well known and conventional technique in the art to dry a coated foil of the same type in this manner as shown for example by Claude et al. wherein only the expected results, i.e. removing the solvent, would be achieved.

Regarding the limitation requiring complete vaporization of the solvent, it is noted the drying step is performed solely to eliminate the solvent such that completely vaporizing the solvent is intrinsic to Ohtsuki et al. In any event, it would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the drying for a sufficient length of time that the solvent is completely vaporized to produce a coated foil wherein the solvent is eliminated.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 3-6, 10, and 11 have been considered but are moot in view of the new ground(s) of rejection. Regarding Ohtsuki et al. applicant argues, "There are no comments regarding a complete vaporization of the liquid of the solution or the dispersion." As noted above, the drying step is performed to eliminate the solvent such that completely vaporizing the solvent is intrinsic to Ohtsuki et al. Applicant further argues, "Finally, Ohtsuki joins the carrier film 1, the plastic film 4 and the adhesive simultaneously (see figures 1 and 2). In comparison, the claimed invention uses a process with subsequent steps. First, the carrier film is coated then the coated carrier film the carrier film is dried and finally the coated and dried carrier film is joined to the plastic film. This process sequence is also not disclosed by Ohtsuki." Example 4 of Ohtsuki et al. clearly disclose the process steps in the order claimed.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1733

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John L. Goff



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